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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 30, 2003

APPLICATION OF

NATIONAL COUNCIL ON  
COMPENSATION INSURANCE, INC.

CASE NO. INS-2002-00182

For revision of voluntary loss  
costs and assigned risk workers'  
compensation insurance rates

**FINAL ORDER**

The Commission heard the application filed in this matter on November 20, 2002. At the hearing appeared the National Council on Compensation Insurance, Inc. ("NCCI"), the Division of Consumer Counsel, the Office of the Attorney General ("OAG"), the Commission's Bureau of Insurance ("BOI"), and respondents Washington Construction Employers Association and the Iron Workers Employers Association ("Respondents").

The Commission has considered the record in its entirety, including the application, the pre-filed testimony admitted at the hearing, the evidence presented at the hearing, and the post-hearing briefs.

Accordingly, IT IS ORDERED THAT:

(1) The proposal by NCCI to use the frequency-severity methodology to calculate the occupational disease component of voluntary loss costs and assigned risk rates for coal mine classifications is hereby approved;

(2) Proposals to increase the frequency of approved occupational disease claims for coal mine classifications to reflect administrative rule changes under the Federal Coal Mine Health and Safety Act are hereby disapproved; in lieu thereof, no increase shall be assumed;

(3) The proposal by NCCI to measure the frequency of approved occupational disease claims for coal mine classifications using data from 1995 to 1999 is hereby disapproved; in lieu thereof, frequency based on the five most recent years of available data, with wage data trended for wage inflation, shall be utilized, as recommended by BOI witness Lefkowitz;

(4) The proposal by NCCI to calculate the life expectancy of coal miners suffering from black lung disease using the life expectancy table of the general public in the calculation of occupational disease claim severity for coal mine classifications is hereby disapproved; in lieu thereof, the life expectancy table of male smokers shall be utilized, as recommended by BOI witness Lefkowitz;

(5) The proposal by NCCI to use the actuarial assumption that 100% of all coal miners suffering from black lung disease are married and without other dependents is hereby disapproved; in lieu thereof, the actuarial assumption that 78.9% of all Virginia coal miners with black lung are married without other dependents shall be utilized, as recommended by BOI witness Lefkowitz;

(6) The proposal by NCCI to apply the assigned risk differential to the occupational disease component of voluntary loss costs and assigned risk rates for coal mine classifications is hereby disapproved; in lieu thereof, the assigned risk differential shall not be utilized, as recommended by BOI witness Lefkowitz;

(7) The proposal by NCCI to use the profit and contingencies provision of the industrial classifications to determine the occupational disease component of the assigned risk rates for coal classifications is hereby disapproved; in lieu thereof, a profit and contingencies provision based on the expected payment of occupational disease benefits, -12.25%, shall be utilized, as recommended by BOI witness Lefkowitz;

(8) The proposal by NCCI to use the expense provision of the industrial classifications to determine the occupational disease component of the assigned risk rates for coal classifications is hereby disapproved; in lieu thereof, an expense provision based on the policy size data of coal mine employers shall be utilized, as recommended by BOI witness Ileo;

(9) The proposal by NCCI to change the maximum limit on individual claims used in class ratemaking is hereby disapproved;

(10) The recommendation made by OAG witness Fauerbach to change the methodology for determining the loss adjustment expense provision contained in loss costs is hereby disapproved;

(11) NCCI and any other persons participating in future voluntary loss costs and assigned risk rate applications before the Commission, when proposing methodologies or data sources that are different from the methodologies or data sources upon which then current voluntary loss costs and/or assigned risk rates and/or rating values are based, shall be required to disclose the voluntary loss cost and/or assigned risk rate or rating values effect of the change employing both the methodology it proposes to replace as well as the newly proposed methodology;

(12) In accordance with the adjustments ordered herein, NCCI shall revise its voluntary loss costs and assigned risk rates as follows: (i) an increase of 1.5% in industrial class voluntary loss costs; (ii) an increase of 1% in "F" class voluntary loss costs; (iii) a decrease of 2.4% in underground coal mines voluntary loss costs; (iv) an increase of 7.9% in surface coal mines voluntary loss costs; (v) no change in industrial class assigned risk rates; (vi) an increase of 11.7% in "F" class assigned risk rates; (vii) a decrease of 2.4% in underground coal mines assigned risk rates; and (viii) an increase of 12.2% in surface coal mines assigned risk rates. For

surface and underground coal mines voluntary loss costs and assigned risk rates, NCCI shall incorporate adjustments required to reflect application of the approved swing limit;

(13) Except as otherwise ordered herein, the proposed revisions to voluntary loss costs, assigned risk rates, minimum premiums, rating values, rules, regulations, and procedures for writing workers' compensation voluntary loss costs and assigned risk rates that have been filed by NCCI in this proceeding on behalf of its members and subscribers shall be, and they are hereby, APPROVED for use with respect to new and renewal business on and after April 1, 2003;

(14) NCCI, BOI, OAG, and the Respondents in this proceeding make their best efforts to recommend jointly to the Commission on or before June 1, 2003, a proposed schedule for any year 2003 voluntary loss cost/assigned risk rate revision proceeding before the Commission. Such proposed schedule shall address: (i) the "pre-filing" of any discovery requests by BOI, OAG, and any other parties; (ii) the date on which NCCI proposes to file with the Commission any voluntary loss cost/rate revision application and its direct testimony; (iii) the date on which NCCI proposes to respond to such pre-filed discovery requests; (iv) the dates for the pre-filing of the direct testimony of BOI, OAG, and any respondents and the rebuttal testimony of NCCI; and (v) the date of any proposed hearing before the Commission; and

(15) The Commission encourages the working group, consisting of representatives of NCCI, BOI, OAG, and any other interested party to continue to meet and seek consensus to the extent possible concerning methodological and other issues of concern to members of the group, including but not limited to, the extent to which administrative rule changes under the Federal Coal Mine Health and Safety Act will increase the frequency of approved occupational disease

claims for coal mine classifications, as well as the proposal to change the maximum limit on individual claims used in class ratemaking.